

REGULAR MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, January 3, 2007 6:00pm
City Council Chambers, Bath City Hall

Present: Councilors Hinds, Omo, Mulligan, Rogers, Verville, Pagurko, Winglass, and Chairman Wyman.

Also in attendance was the City Manager – William Giroux, City Solicitor - Roger Therriault and City Clerk - Mary White.

Chairman Wyman led the Pledge of Allegiance and City Clerk White called the Roll.

Council made a presentation of a plaque to former Councilor William Quimby in recognition of his years of service to the citizenry of Bath while serving on Council. Councilor Quimby thanked Council, City staff, the citizens of Bath and his family for their support during his tenure as Councilor. He got a standing ovation.

C. Public Hearings: 6:06 PM

1) Long Reach Properties LLC Proposal for a \$300,000 CDBG Development Fund Loan

Chairman Wyman opened the Public Hearing. Al Smith, CDBG Coordinator, explained the owners of the property decided to apply for the CDBG Development Fund Loan program as it would be more timely than going for grant funds. Mr. Smith introduced Gene Nygaard, owner of the property, and Joseph LeBlanc of LeBlanc Associates Inc., the consultant working on the permitting process for the project. Mr. LeBlanc updated Council on the progress of the project. He explained that there is a deteriorating waterfront edge next to the river and the ultimate solution would be to install a sheet pile wall in front of the building.

Mr. LeBlanc stated that the DEP Permit, Corp of Engineer Permit, Bureau of Parks and Submerged Lands Lease and City Permits have all been obtained to start the stabilization process. He explained there were two options to choose from: a driven H-beam rock socketed into the ledge under mud with precast concrete sections and the other to build a sheet pile wall at the deteriorating waterfront side of the building. The sheet pile wall is the option that was selected and the firm of Wyman and Simpson from Richmond, Maine was selected through the bidding process to do the work. The project will include construction of the stabilization system, make minor upgrades to façade of building, rebuild the patio and add a public walkway at the waterfront. Mr. LeBlanc gave the project's time line to begin February 1, 2007 and last about 6-8 weeks.

D. Consent Agenda: 6:12 PM

2) Councilor Pagurko made a motion to amend the minutes for December 6, 2006 on page 3, #4 to read "Councilor Pagurko nominated Chairman Wyman to be the Council Representative to the Bath Water District Board of Directors until the first Wednesday in December 2007. The nomination was seconded by Councilor Hinds." All in favor of the amendment.

Motion by Councilor Pagurko, second by Councilor Hinds to accept the amended minutes for the December 6, 2006 Council Meeting and Items K11, K12, and K13 as listed on the agenda. All in favor.

E. Time Devoted to Residents to Address the City Council: 6:14 PM

No residents spoke at this time.

F. Ordinances, Resolutions and Orders: 6:14 PM

3) Resolution: Authorizing Long Reach Properties, LLC Grant Application

Chairman Wyman read the following Resolution:

**Resolution
City of Bath**

Whereas the City of Bath wishes to apply to the Department of Economic and Community Development for a Community Development Block Grant Program award to carry out a community development program; and

Whereas the planning process required by Maine Law and the CDBG program has been complied with, including participation in the planning process by low and moderate income families and individuals and the Municipal Entity has conducted at least one duly advertised public hearing; and

Whereas the Department of Economic and Community Development has established the Economic Development Program,

Development Fund Loan Category

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL that William D. Giroux it's City Manager is authorized and directed to submit a Community Development Block Grant application for the program designated above in the amount of \$300,000.00 to the Department of Economic and Community Development on behalf of Long Reach Properties, LLC (d.b.a. Kennebec Tavern & Marina) substantially in the form presented to this Council;

is authorized to make such assurances on behalf of the City of Bath required as part of such application; and,

is authorized and directed, upon acceptance of said funds to carry out the duties and responsibilities for implementing said program, consistent with the Charter of City of Bath_ and the laws and regulations governing the planning and implementation of community development programs in the State of Maine.

Signed this 3rd day of January 2007 on behalf of the Community Council of Bath, Maine

Motion by Councilor Winglass, second by Councilor Pagurko to put this item on the floor for discussion.

VOTE on Resolution:

YEAS: 7

NAYS: 0

Resolution passed unanimously. 7-0

4) Order: Approving Provisional Use Permit to Bath Iron Works for temporary parking lot on Washington Street

Chairman Wyman read the following Order:

**ORDER
APPROVING PROVISIONAL USE PERMIT**

PURSUANT TO THE AUTHORITY OF CITY COUNCIL UNDER SECTION 9.05 OF THE LAND USE CODE, AND IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 11.24 OF THE LAND USE CODE, THE CITY COUNCIL MAKES THE FOLLOWING FINDINGS:

1. THE CITY OF BATH HAS RECEIVED A REQUEST FROM THE BATH IRON WORKS CORPORATION TO ALLOW TEMPORARY PARKING ON PROPERTY OF THE BATH IRON WORKS CORPORATION LOCATED ON WASHINGTON STREET AND BOUNDED BY WASHINGTON STREET ON THE EAST, SOUTH STREET ON THE SOUTH, SHEPARD LANE ON THE WEST, AND SHEPARD STREET ON THE NORTH, AND MORE PARTICULARLY DESCRIBED AS LOTS 154 AND 155-1 ON CITY OF BATH TAX MAP 32.
2. THE BASIS FOR THE REQUEST IS TO ACCOMMODATE PARKING THAT IS BEING DISPLACED BY NEW CONSTRUCTION AT THE SOUTH END OF THE YARD FACILITY.
3. STAND ALONE PARKING IS NOT PERMITTED ON THE PROPERTY, WHICH IS IN THE C II ZONING DISTRICT, PURSUANT TO THE PROVISIONS OF SECTION 9.02(13-1) OF THE LAND USE CODE. THE PROPERTY WILL, HOWEVER, BECOME ELIGIBLE TO APPLY FOR STATUS AS A SEPARATE PARKING LOT IN AUGUST OF 2007, AT WHICH TIME TEN (10) YEARS WILL HAVE EXPIRED SINCE THE BUILDINGS WERE REMOVED FROM THE PROPERTY AND IT BECAME VACANT.
4. THE USE OF THE PROPERTY AS A PARKING LOT, WITH SUBSTANTIAL PARKING BEING IMMEDIATELY ADJACENT, DOES NOT CREATE ANY NUISANCE.
5. THE DISPLACED PARKING BY NEW CONSTRUCTION AT THE BATH IRON WORKS CORPORATION CREATES A HARDSHIP ON THE APPLICANT.

BASED ON THE FOREGOING, IT IS HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BATH THAT A PROVISIONAL USE PERMIT SHALL ISSUE TO THE BATH IRON WORKS CORPORATION TO ALLOW VEHICLE PARKING ON LOTS 154 AND 155-1 ON TAX MAP 32 FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF ISSUANCE OF THIS PERMIT, SAID YEAR TO COMMENCE ON JANUARY 4, 2007.

Motion by Councilor Hinds, second by Councilor Pagurko to put this item on the floor for discussion.

Jim Upham, City Planner, stated that LUC does not allow for a parking lot that has not been vacant for 10 years. In August it will have been 10 years since the building has been demolished. BIW will be able to apply to the ZBA for permission to expand a non-conforming use on this lot. Mr. Upham explained that due to the construction on the Pre-outfit 2 Building, BIW would be short on parking. He recommended that BIW be allowed to use this lot until they can apply in August to the ZBA for permanent use.

VOTE on Order:

YEAS: 7

NAYS: 0

Order passed unanimously. 7-0

5) Order: Approving Real Estate Transaction for Water Street Property

Chairman Wyman read the following Order:

**ORDER
APPROVING REAL ESTATE TRANSACTION**

WHEREAS, the City of Bath has the opportunity to add additional parking to the parking lot on the West side of Water Street; and

WHEREAS, the parking lot has been redesigned to provide for this additional parking; and

WHEREAS, the City has acquired a 1,070 square foot parcel to accommodate the redesign from Marc D. Mazerolle; and

WHEREAS, it is necessary to acquire an additional 2,765 square foot parcel from CHR Realty.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the conveyance of a strip of land from the East end of property of CHR Realty be and hereby is accepted, and BE IT FURTHER ORDERED that, as partial consideration for the conveyance of the parcel, the City shall grant to CHR Realty a perpetual easement over a 20 foot strip of land running westerly from Water Street to the easterly portion of the remaining land of CHR Realty, for the purpose of ingress and egress by foot or vehicle. IT IS FURTHER ORDERED that the City Manager be authorized to execute the Easement Deed and all other necessary and appropriate documents to accomplish the acceptance of the conveyance of the 2,765 square foot parcel and the conveyance of the Easement.

Motion by Councilor Pagurko, second by Councilor Hinds to put this item on the floor for discussion.

William Giroux, City Manager, explained that this is regarding the Municipal Parking Lot by the Bath Police Station.

VOTE on Order:

YEAS: 7

NAYS: 0

Order passed unanimously. 7-0

6) Order: Approving relocation of an easement for sewer line across Old Ship Yard Land LLC property

Chairman Wyman read the following Order:

**ORDER
APPROVING EXCHANGE OF SEWER EASEMENT**

WHEREAS, the Subdivision entitled "Old Shipyard Land LLC" has been approved by the Bath Planning Board and is awaiting final Plan approval; and

WHEREAS, the applicant has proposed to relocate a sewer easement on the premises of the Subdivision; and

WHEREAS, the exchange is more particularly shown on a portion of the Subdivision Plan;

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the Deed attached hereto approving the exchange of sewer easements, be approved in substantially the form presented, and that the City Manager of the City of Bath be authorized to execute the document on behalf of the City, together with such other documents as may be necessary to accomplish the exchange of easements.

Motion by Councilor Pagurko, second by Councilor Hinds to put this item on the floor for discussion.

Jim Upham, City Planner, explained the location of this easement.

VOTE on Order:

YEAS: 7

NAYS: 0

Order passed unanimously. 7-0

7) Ordinance: LUC Amendment for Article 2 and Article 8 (first passage)

Motion by Councilor Hinds, second by Councilor Pagurko to waive the reading of the Ordinance. All in favor.

A complete copy of the Ordinance is on file with the agenda materials for the January 3, 2007 Council Meeting in the Bath City Clerk's Office.

Motion by Councilor Pagurko, second by Councilor Verville to put this item on the floor for discussion.

Jim Upham, City Planner, explained the purpose of the amendment is to allow for a quicker, more streamlined review of minor changes to properties in the historic district. He gave an overview of the makeup and function of the Historic Review Committee.

VOTE on Ordinance:

YEAS: Hinds, Omo, Mulligan, Rogers, Verville, Pagurko, Winglass

NAYS: None

Ordinance passed unanimously. 7-0

Chairman Wyman set second passage of the Ordinance for February 7, 2007 at 6:01 PM.

8) Order: Appointing the Bath Transportation Commission

Chairman Wyman read the following Order:

**ORDER
APPOINTING COMMISSIONERS**

WHEREAS, a non-profit corporation known as The Bath Transportation Commission has been organized; and

WHEREAS, the Commission has been established for the purpose of overseeing and administering the operation of the Old Bath Train Station, to serve as an advocate for multi-model transportation services in Bath and related tourism, and to be involved in such other tourism and transportation issues as may be directed by the City Council or City Manager; and

WHEREAS, the operation of the Commission is governed by a Board of Commissioners; and

WHEREAS, the City Council of the City of Bath, pursuant to the By-Laws of the corporation, appoints members to commission terms, with the exception of certain City Staff and representatives and/or Board members of the Midcoast Chamber of Commerce and Main Street Bath.

NOW, THEREFORE, BE IT HEREBY ORDERED by the City Council of the City of Bath that the following are elected to the terms designated below:

Peter Robohm	4-Year Term
Herbert Kresser	4-Year Term
Joseph Byrnes	4-Year Term
Thomas Watson	3-Year Term
Andrew Perry	3-Year Term
Lou Ensel	3-Year Term
Midcoast Chamber of Commerce Board Member	2-Year Term
Amy Lent-Exec. Dir.-Maine Maritime Museum	2-Year Term
Representative of Main Street Bath	2-Year Term
City Councilor	Yearly Appointment
City Planner or Designee	Indefinite Term

Motion by Councilor Pagurko, second by Councilor Rogers to put this item on the floor for discussion.

William Giroux, City Manager, explained this operation should follow the same model as the Customs House. The funding for the project is 80% DOT money with Federal ties and 20% City money. The City will own the building outright. There will be two spaces in the building for rental use. Mr. Giroux stated the Trolley, City Bus, train and other buses would make use of this building. The City's Finance Director will be the ex-officio Treasurer of the organization.

Jim Upham, City Planner, gave a brief history of the building and an update on the progress of the renovations to it.

Peter Heinz of 977 High Street asked for clarification of the designation for a Chamber of Commerce Board Member instead of a staff member.

Councilor Winglass asked that the Chamber of Commerce representative be changed to a member and the term be changed to a 1-year term and that the representative from Main Street Bath be a 1-year term also. It was the consensus of the Council to make these changes. City Manager Giroux stated these changes would be done.

VOTE on Order:

YEAS: 7

NAYS: 0

Order passed unanimously. 7-0

9) Order: Authorizing a Special Municipal Election on February 20, 2007 to elect a Councilor for Ward Five to fill a term to expire the first Wednesday in December 2007.

Chairman Wyman read the following Order:

ORDER

In City Council
January 3, 2007

WHEREAS, the City Council of the City of Bath, pursuant to Section 209 of the Charter, has the authority and obligation to determine vacancies in the office of Councilor; and

WHEREAS, the untimely and unfortunate passing of City Councilor from Ward 5, John C. Hart, Jr., renders the office vacant;

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Bath that the Ward 5 Council Seat be and hereby is declared vacant and that a Special Election to fill the remainder of the term for the Ward 5 Council Seat, until the first Wednesday in December of 2007, be held on February 20, 2007, and

BE IT FURTHER ORDERED by the City Council of the City of Bath, that:

A Warrant be prepared and issued to notify and summons the Inhabitants of Ward Five of the City of Bath, qualified to vote, that a Special Municipal Election will be held at Bath Middle School Cafeteria, 6 Old Brunswick Road, on the 20th day of February, in the year of our Lord Two Thousand Seven, at 9 o'clock in the forenoon, then and there, to cast their votes at the Special Municipal Election for:

WARD 5 City Councilor to be Elected:

One to be Elected for a term to expire the first
Wednesday in December 2007

and, BE IT FURTHER ORDERED, that said polls are to be kept open until 8 o'clock in the afternoon of said day and then be closed.

Motion by Councilor Pagurko, second by Councilor Hinds to put this item on the floor for discussion.

VOTE on Order:

YEAS: 7

NAYS: 0

Order passed unanimously. 7-0

10) Order: Approving Voter Registrar's hours for the Special Municipal Election to be held on February 20, 2007.

Chairman Wyman read the following Order:

ORDER

Be It Ordered by the City Council of the City of Bath, that the hourly schedule for the office of the Registrar of Voters shall be from 8:30am to 4:30pm Monday through Friday prior to the Special Municipal Election to be held Tuesday, February 20, 2007 except for Saturday, February 17, 2007 from 10:00am to 1:00pm at the City Clerk's Office, 55 Front Street.

Voters from Ward 5 may register on the Day of the Election from 7:30 AM – 8:00 PM at the City Clerk's Office or from 9:00 AM – 8:00 PM at the polls at the Bath Middle School Cafeteria, 6 Old Brunswick Road.

Motion by Councilor Pagurko, second by Councilor Verville to put this item on the floor for discussion.

VOTE on Order:

YEAS: 7

NAYS: 0

Order passed unanimously. 7-0

G. Petitions & Communications: 7:05 PM

Chairman Wyman read a Thank You from Fay Hart, former Councilor Jack Hart's wife, for the City's kindnesses during her recent bereavement.

H. City Manager's Report: 7:06 PM

City Manager Giroux reported on the following items:

- Sewer Issues on Park Street
- Landfill Gas Issue Update

Chairman Wyman announced that nomination papers for the Ward 5 Councilor position would be available at the City Clerk's Office starting January 4, 2007.

I. Committee Reports: 7:12 PM

There were no Committee Reports.

J. Old Business: 7:12 PM

There was no old business.

K. New Business: 7:12 PM

***11) Annual Appointment: J. Scott Davis as Codes Enforcement Officer, Health Officer and Plumbing Inspector for one year, pursuant to State Statutes.**

This appointment was approved on the Consent Agenda (D2).

***12) Annual Appointment: Robert Williamson as Alternate Codes Enforcement Officer and Plumbing Inspector for the City of Bath for one year.**

This appointment was approved on the Consent Agenda (D2).

***13) Annual Appointment: Anne Banger as Assistant Codes Enforcement Officer and Plumbing Inspector for the City of Bath for one year.**

This appointment was approved on the Consent Agenda (D2).

14) Appointment of one member to the Personnel Service Commission, term to expire January 2010.

Councilor Pagurko nominated Karla Gagnon to fill this position. Councilor Hinds seconded the nomination. All in favor of the nomination.

15) Annual Appointments to Committees by Council Nominees:

Bath Housing Authority – Bernard Wyman
MidCoast Council for Business Development & Planning -
Brian Verville, Brian Mulligan, Kyle Rogers
Patten Free Library – Brian Verville
Recreation Commission – Keith Hinds
Sidewalk Vending License Committee - Ruthe Pagurko
Student Community Liaison Council – Keith Hinds
Welfare Review Board – Ruthe Pagurko, Ward 5 Councilor

Councilor Pagurko made a motion to accept the nominations for the Appointments to the Committees. Councilor Hinds seconded the motion. All in favor of the nominations.

The meeting adjourned at 7:16 PM with a motion by Councilor Pagurko, seconded by Councilor Winglass. All in favor.

Attest:

Mary J. White, City Clerk

Please note: These minutes are not recorded verbatim. A DVD recording of the meeting is available for review in the City Clerk's office during regular business hours.